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PATENT APPLICATION

ATTORNEY DOCKET NO. 10013721-1

IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): James P. SLUPE

Confirmation No.: 1568

Application No.: 09/923,707

Examiner: M. S. Elabee

Filing Date: 08/06/2001

Group Art Unit: 2614

Title: SELECTION OF RADIO STATION BASED ON PREFERRED PROGRAM CONTENT

Mail Stop Appeal Brief-Patents
Commissioner For Patents
FO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 06/16/2006.
The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

(a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

1st Month
\$120

2nd Month
\$450

3rd Month
\$1020

4th Month
\$1590

The extension fee has already been filed in this application.

(b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$ 500. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Number of pages: 24

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant:	James P. SLUPE	§	Confirmation No.:	1568
Serial No.:	09/923,707	§	Group Art Unit:	2614
Filed:	08/06/2001	§	Examiner:	M. S. Elahee
For:	Selection Of Radio Station Based On Preferred Program Content	§	Docket No.:	10013721-1

APPEAL BRIEF

**Mail Stop Appeal Brief – Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450**

Date: August 14, 2006

Sir:

Appellant hereby submits this Appeal Brief in connection with the above-identified application. A Notice of Appeal was filed via facsimile on June 16, 2006.

08/15/2006 MBINAS 00000029 082025 09923707
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I. REAL PARTY IN INTEREST

The real party in interest is the Hewlett-Packard Development Company (HPDC), a Texas Limited Partnership, having its principal place of business in Houston, Texas. HPDC is a wholly owned affiliate of Hewlett-Packard Company (HPC). The Assignment from the inventor to HPC was recorded on October 9, 2001, at Reel/Frame 012248/0763. This recordation was re-recorded on January 30, 2002, at Reel/Frame 012566/0649, to correct the Assignor. The Change of Name document from HPC to HPDC was recorded on September 30, 2003, at Reel/Frame 014061/0492.

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II. RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals or interferences.

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III. STATUS OF THE CLAIMS

Originally filed claims: 1-23.
Claim cancellations: 7, 19, 24, 26 and 28-29.
Added claims: 24-31.
Presently pending claims: 1-6, 8-18, 20-23, 25, 27 and 30-31.
Presently appealed claims: 1-6, 8-18, 20-23, 25, 27 and 30-31.

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IV. STATUS OF THE AMENDMENTS

No claims were amended after the final Office Action dated April 19, 2006.

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V. SUMMARY OF THE CLAIMED SUBJECT MATTER

Appellant's disclosure describes a radio apparatus in which radio station identities are stored. Each radio station identity identifies a different radio station. The disclosed radio apparatus also stores one or more program content specifiers for each radio station identity. The same or similar programs may be broadcast on multiple radio stations, and the identities of such comparable programs and the radio stations through which they are broadcast are stored in the radio apparatus. As the radio apparatus plays a particular program via a particular radio station, if the signal strength from that radio station falls below a threshold, the radio apparatus will begin to search for a replacement station that broadcasts the same or similar program and that has a higher signal strength. See page 3 of Appellant's disclosure. Accordingly, a new station is sought when the comparison of the currently received signal strength to the threshold indicates that "the radio signal is so weak that the fidelity is unacceptable for listening."

Page 3, lines 15-16.

The invention of claim 1 is directed to an apparatus (Fig. 1, 20) that comprises a radio receiver (24), a memory (32) and a controller (30). The apparatus is described at least on pages 9-11 of Appellant's disclosure. The receiver has an input for receiving radio station identities for specifying radio stations for reception and an output indicating a presently received signal strength. The memory has stored therein a plurality of radio station identities (Fig. 4, 52 and 54) organized according to program content specifiers. The memory has stored therein a plurality of geographic location coordinates (56, 58) associated with the plurality of radio station identifiers. The controller is operable to recall one of the plurality of radio station identities referenced to the same program content specifier as a presently specified radio station when the presently received signal strength meets a threshold. Figures 5 and 6 and pages 13-15 describe various embodiments.

The invention of claim 13 is directed to a method of selecting radio stations in a radio receiver having a memory with a plurality of radio station identities organized according to program content specifiers stored therein. The memory

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has stored therein a plurality of geographic location coordinates associated with the plurality of radio station identifiers. The method comprises scanning the plurality of radio station identifiers in the memory, ordered according to the program content specifiers and the location coordinates. The method also comprises monitoring the signal strength of a present radio station signal, determining that the signal strength has met a threshold, selecting a radio station identity from the memory that has the same program content specifier as the present radio station; and tuning the radio receiver according to the selected radio station identity. See at least Figures 2, 4, and 5 and pages 9-11 and 13-15.

The invention of claim 25 is directed to an apparatus that comprises a radio receiver having an input for receiving radio station identities for specifying radio stations for reception and an output indicating a presently received signal strength. The apparatus also comprises a memory and a controller. The memory has stored therein a plurality of radio station identities organized according to program content specifiers. The plurality of station identities and the program content specifiers are programmed into the memory through a subscription service (page 13). The controller is operable to recall one of the plurality of radio station identities referenced to the same program content specifier as a presently specified radio station when the presently received signal strength meets a threshold. See at least Figures 2, 4, and 5 and pages 9-11 and 13-15.

The invention of claim 27 is directed to a method of selecting radio stations in a radio receiver having a memory with a plurality of radio station identities organized according to program content specifiers stored therein. The method comprises providing a plurality of station identities and program content specifiers to the memory via a subscription service, monitoring the signal strength of a present radio station signal, and determining that the signal strength has met a threshold. Upon determining that the signal strength of the present radio station signal has met a threshold, the method comprises selecting a radio station identity from the memory that has the same program content specifier as said present radio station. The method then comprises tuning the radio receiver according to

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the selected radio station identity. See at least Figures 2, 4, and 5 and pages 9-11 and 13-15.

In at least some of Appellant's disclosed and claimed embodiments, the radio station identities and program content specifiers are programmed into the memory with data received by the radio receiver. See e.g., page 13. Thus, the above-mentioned subscription service, that provides the radio station identities and program content specifiers, can be provided via a radio station. Page 13.

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VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1, 2, 4-6, 8, 11-14, 16-18, 25, 27, 30 and 31 are anticipated per 35 U.S.C. § 102(b) by Strauss (U.S. Pat. No. 4,476,582).

Whether claims 3 and 15 are obvious per 35 U.S.C. § 103(a) over Strauss in view of Bickford (U.S. Pat. No. 6,021,320).

Whether claims 9, 10 and 20-23 are obvious per 35 U.S.C. § 103(a) over Strauss in view of Bickford and Dennison (U.S. Pat. No. 5,815,814).

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VII. ARGUMENT

A. Overview of Strauss

Because Strauss is common to all of the Examiner's grounds of rejection, Appellant offers the following overview of Strauss to support the arguments that follow. Strauss teaches a broadcast receiver that, while tuned to and playing a program on one radio station, continuously seeks out an alternate station that is broadcasting the same program and that would result in a higher reception quality. The following is from the Abstract of Strauss:

While a particular station is being listened to, therefore, continuous checking of the station being listened to with other stations broadcasting the same program for relative reception quality can be carried out automatically while a station is being listened to in a moving vehicle, without taking into account the signals broadcast by stations that are too far away. As soon as some other station broadcasting the same program is found to provide better reception, it is automatically tuned in, and from then on the distance criterion is referred to the location of the new station, a new set of stations for signal comparison is selected and the comparative signal checking process is continued automatically.

Thus, Strauss teaches continuously seeking out a new station to which to tune that is better (in terms of reception quality) than the current station. Even if the reception associated with the current station is more than adequate, Strauss's receiver constantly seeks out an even better station.

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B. The § 102 rejections

1. Claims 1, 2, 6, 8, 11-14, and 18

Appellant selects claim 1 to discuss as representative of this grouping. Claim 1 requires "a controller...operable to recall one of said plurality of radio station identities referenced to the same program content specifier as a presently specified radio station when the presently received signal strength meets a threshold. This claim limitation is in contrast to Strauss which teaches continuously checking for stations with better reception. Thus, whereas claim 1 requires recalling a radio station identity if the received signal strength meets a threshold, Strauss teaches searching for a station with better reception regardless of the reception strength of the currently tuned station. The other art of record does not satisfy this deficiency of Strauss and was not used in that regard anyway by the Examiner.

At least for this reason, the Examiner erred in rejecting claim 1. Based on the foregoing, Appellant respectfully submits that the rejections of the claims in this grouping be reversed, and the claims set for issue.

2. Claims 4, 16, 25, and 27

The claims in this group comprise at least two limitations not found in Strauss. First, the claims include the "threshold" limitation discussed above. The argument regarding the threshold limitation will not be repeated here. Second, the claims require that the station identities and program content specifiers are provided to the memory through a "subscription service." The Examiner referred to several passages from Strauss for this limitation, but no mention of any type of subscription service is disclosed in Strauss.

Based on the foregoing, Appellant respectfully submits that the rejections of the claims in this grouping be reversed, and the grouping set for issue.

3. Claims 5 and 17

The claims in this group comprise at least two limitations not found in Strauss. First, the claims include the "threshold" limitation discussed above. The argument regarding the threshold limitation will not be repeated here. Second, the claims in this grouping require that the station identities and program content

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specifiers are programmed in the memory with "data received by said radio receiver." The Examiner referred to several passages from Strauss for this limitation, but Strauss lacks any mention of programming a memory with station identities and program content specifiers that come from data received by the radio receiver.

Based on the foregoing, Appellant respectfully submits that the rejections of the claims in this grouping be reversed, and the grouping set for issue.

4. Claims 30 and 31

The claims in this group comprise at least two limitations not found in Strauss. First, the claims include the "threshold" limitation discussed above. The argument regarding the threshold limitation will not be repeated here. Second, the claims in this grouping require that the station identities and program content specifiers are programmed in the memory "through a subscription service via a radio station." The Examiner referred to several passages from Strauss for this limitation, but Strauss lacks any mention of a subscription service that is provided via a radio station.

Based on the foregoing, Appellant respectfully submits that the rejections of the claims in this grouping be reversed, and the grouping set for issue.

C. The § 103 rejections of claims 3 and 15

Claims 3 and 15 depend from claims that are allowable as discussed above. Specifically, these claims are allowable for the same or similar reason as argued above regarding claim 1. The other art of record (Bickford) used against claims 3 and 15 does not satisfy the deficiency of Strauss. The combination of Strauss and Bickford does not render obvious claims 3 and 15.

D. The § 103 rejections of claims 9, 10, 20-23

Claims 9, 10, and 20-23 depend from claims that are allowable as discussed above. Specifically, these claims are allowable for the same or similar reason as argued above regarding claim 1. The other art of record (Bickford and Dennison) used against claims 9, 10, and 20-23 does not satisfy the deficiency of Strauss. The combination of Strauss, Bickford and Dennison does not render obvious claims 9, 10 and 20-23.

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E. Conclusion

For the reasons stated above, Appellant respectfully submits that the Examiner erred in rejecting all pending claims. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,



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VIII. CLAIMS APPENDIX

1. (Previously presented) An apparatus comprising:
 - a radio receiver having an input for receiving radio station identities for specifying radio stations for reception and an output indicating a presently received signal strength;
 - a memory having stored therein a plurality of radio station identities organized according to program content specifiers, said memory having stored therein a plurality of geographic location coordinates associated with said plurality of radio station identifiers; and
 - a controller coupled to said receiver and said memory and operable to recall one of said plurality of radio station identities referenced to the same program content specifier as a presently specified radio station when the presently received signal strength meets a threshold.
2. (Original) The apparatus of Claim 1 wherein said plurality of station identities and said program content specifiers are manually programmed into said memory through a user interface on the apparatus.
3. (Previously presented) The apparatus of Claim 1 wherein said plurality of station identities and said program content specifiers are preprogrammed into said memory.
4. (Original) The apparatus of Claim 1 wherein said plurality of station identities and said program content specifiers are programmed into said memory through a subscription service.
5. (Original) The apparatus of Claim 1 wherein said plurality of station identities and said program content specifiers are programmed into said memory with data received by said radio receiver.

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6. (Original) The apparatus of Claim 1 wherein said controller is operable to sequentially scan said memory to locate the one of said plurality of radio station identities that is recalled and coupled to said input each subsequent time said presently received signal strength meets said threshold.
7. (Canceled).
8. (Previously presented) The apparatus of Claim 1 wherein said controller is operable to scan said plurality of radio station identifiers in said memory ordered according to said program content specifiers and said location coordinates.
9. (Previously presented) The apparatus of Claim 1 further comprising a global positioning system receiver coupled to said controller for providing present location coordinates of the apparatus.
10. (Original) The apparatus of Claim 8 wherein said controller is operable to search said memory to locate the one of said plurality of radio station identities that is recalled and coupled to said input according to said program content specifier of the presently received signal and said stored location coordinates with respect to said present location coordinates.
11. (Original) The apparatus of Claim 1 wherein said memory has stored therein an ordered list of program content specifiers, and wherein said controller is operable to sequence through said ordered list to define a replacement present program content specifier when said controller is unable to locate and recall one of said plurality of radio station identities referenced to the same program content specifier as the presently specified radio station.
12. (Original) The apparatus of Claim 11 and wherein said ordered list of program content specifiers are manually programmed into said memory through a user interface on the apparatus.

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13. (Previously presented) A method of selecting radio stations in a radio receiver having a memory with a plurality of radio station identities organized according to program content specifiers stored therein, said memory having stored therein a plurality of geographic location coordinates associated with the plurality of radio station identifiers, and further comprising the step of scanning the plurality of radio station identifiers in the memory, ordered according to the program content specifiers and the location coordinates, and said method comprising the steps of:

- monitoring the signal strength of a present radio station signal;
- determining that the signal strength has met a threshold;
- selecting a radio station identity from the memory that has the same program content specifier as said present radio station; and
- tuning the radio receiver according to said selected radio station identity.

14. (Original) The method of Claim 13 further comprising the step of manually programming the plurality of radio station identities and program content specifiers into the memory.

15. (Previously presented) The method of Claim 13 wherein the plurality of station identities and program content specifiers are preprogrammed into the memory.

16. (Original) The method of Claim 13 wherein the plurality of station identities and program content specifiers are programmed into the memory through a subscription service.

17. (Original) The method of Claim 13 wherein the plurality of station identities and program content specifiers are programmed into the memory with data received by the radio receiver.

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18. (Original) The method of Claim 13 further comprising the step of sequentially scanning the memory to locate a one of the plurality of radio station identities that is selected each subsequent time the determining step is accomplished.
19. (Canceled).
20. (Previously presented) The method of Claim 13 wherein the radio receiver has a global positioning systems receiver, and further comprising the step of obtaining present location coordinates from the global positioning receiver.
21. (Original) The method of Claim 20 further comprising the step of searching the memory to locate the one of the plurality of radio station identities that is selected according to the program content specifier of the presently tuned signal and the stored location coordinates with respect to said present location coordinates.
22. (Original) The method of Claim 20 wherein the memory has stored therein an ordered list of program content specifiers, further comprising the steps of:
sequencing through the ordered list and
defining a replacement present program content specifier if one of said plurality of radio station identities referenced to the same program content specifier as the presently specified radio station is not located.
23. (Original) The method of Claim 22 further comprising the step of manually programming the ordered list of program content specifiers into the memory.
24. (Canceled).

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25. (Previously presented) An apparatus comprising:

- a radio receiver having an input for receiving radio station identities for specifying radio stations for reception and an output indicating a presently received signal strength;
- a memory having stored therein a plurality of radio station identities organized according to program content specifiers, said plurality of station identities and said program content specifiers being programmed into said memory through a subscription service; and
- a controller coupled to said receiver and said memory and operable to recall one of said plurality of radio station identities referenced to the same program content specifier as a presently specified radio station when the presently received signal strength meets a threshold.

26. (Canceled).

27. (Previously presented) A method of selecting radio stations in a radio receiver having a memory with a plurality of radio station identities organized according to program content specifiers stored therein, comprising the steps of:

- providing a plurality of station identities and program content specifiers to the memory via a subscription service;
- monitoring the signal strength of a present radio station signal;
- determining that the signal strength has met a threshold;
- upon determining that the signal strength of the present radio station signal has met a threshold, selecting a radio station identity from the memory that has the same program content specifier as said present radio station; and
- tuning the radio receiver according to said selected radio station identity.

28.-29. (Canceled).

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30. (Previously presented) The apparatus of Claim 1 wherein said plurality of station identities and said program content specifiers are programmed into said memory through a subscription service via a radio station.

31. (Previously presented) The method of Claim 13 further comprising programming the plurality of station identities and program content specifiers into the memory through a subscription service via a radio station.

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IX. EVIDENCE APPENDIX

None.

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X. RELATED PROCEEDINGS APPENDIX

None.